Consuls

12 Sept 1874

Serial No 6-7

Subject

Appointment of Hon: E. Sidney Smith as public prosecutor in Case of Govt. versus Tirumalachari

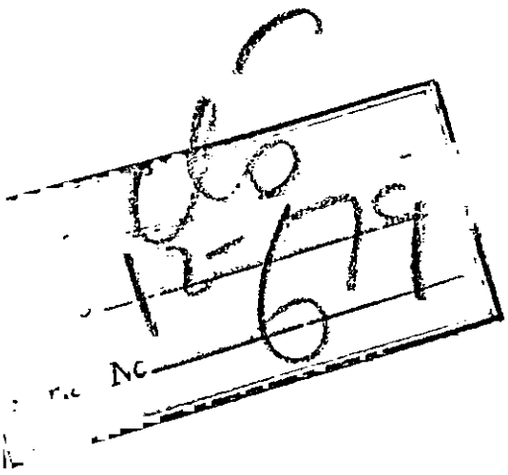
Index

J 64

1879. 0.2952.

From Dy. Commr. Tumkur Dt.

To Secy. to Chief Comr. of Mysore.



Dated 21 Septr 1879.

Despatched

Received 30 —

Enclosures No. 1

General No. 1112 / 1879.
No. 2

Requests sanction to Mr Sidney Smith being appointed Govt Prosecutor in case Govt vs Timmulachari.

No. 112
Enc. 2

Seringapatam

Seringapatam District
Office of the Commissioner
Seringapatam, 24th September 1879.

To,

The Secretary to the Chief
Commissioner of Mysore.
General department.

Sir,

Adverting to the Chief Commissioner's Proceedings Camp No. 18 dated Mysore 17th September 1879, authorising me to retain for Government a special advocate for the purpose of conducting the appeal and other cases in the Judicial Commissioner's Court arising out of Seringapatam Sessions Cases Nos. 22 and 27 of 1879, Government Sirumalachary, I have the honor to report that I have engaged the services of Mr. E. Sidney Smith advocate and that I have instructed him to make the necessary applications to the Judicial Commissioner's Court in accordance with the Chief Commissioner's Proceedings above quoted. — I beg to enclose for information an extract from Mr. Smith's letter to me, and I request that the Chief Commissioner may be pleased at present to sanction the payment to Mr. E. Sidney Smith a fee of Rupees 500 for his services in the Judicial Commissioner's Court. I consider that this sum is very fair and reasonable.

C

I would further beg that the Chief Commissioner would as a special measure sanction an expenditure not to exceed Rs. 50 for the purpose of enabling Mr. Smith to obtain copies of the voluminous proceedings from the Sessions Court, as the ordinary Establishment would be unable to prepare the required copies without much delay. In anticipation of such sanction I have asked Mr. Smith to obtain the copies required by application to the Sessions Court. —

In conclusion I beg to submit the draft of an order specially appointing Mr. Sidney Smith Public Prosecutor for the particular case in question under Section 58 Criminal Procedure Code, and to recommend that such an appointment may be made as soon as possible and communicated both to me and to Mr. Sidney Smith direct. —

I have the honor to be,

Sir,

Your most obedient Servant.

W. Pakenham Jer

Dy. Commissioner

Extract from W. E. Sidney Smith's letter
Dated Bangalore 23rd September 1879.

"To Late Amildar Ennumalachary.

"Your letter (confidential) of the 20th Instant and its enclosures reached me safely on the following day, Sunday) - I intended replying thereto yesterday, but unfortunately I was detained in the Courts till late in the evening. —

"I shall be happy to appear for Government in this case and do all that is considered necessary for the purpose of satisfying the ends of justice for making all or any one or more of the several motions and applications suggested by you in your letter to the Chief Commissioner my fee will be Five Hundred Rupees. If it should be found necessary to proceed with the trial of any of the Charges which have been "suspended" we can arrange separately for this. —

"The finding of the Sessions Judge should have been one of "Criminal Breach of Trust - by a Public Servant" and under the circumstances of the case and even upon the finding of "Theft" there ought to have been a sentence of imprisonment. I quite agree with you that a fine only is no adequate punishment in such a case —

"Tirumalachari has presented a long demarcee appeal to the Jud. Commissioner today, but Mr. Sandford refused to receive it unless presented by Tirumalachar himself or by an advocate. I think the appeal will be presented again on Thursday. —

"I have not had time, as yet, to go through all the papers you sent me, but will do so before the appeal comes on for hearing. Of course I must be furnished with the entire record or rather a copy of the same including the proceedings before the Sessions Court. —

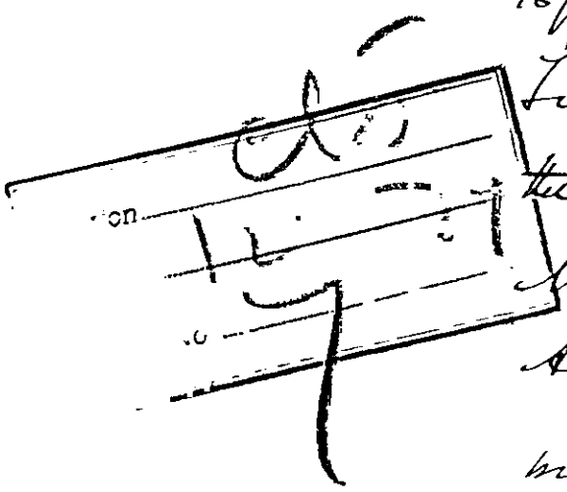
"I think it will be necessary under Section 558 of the Code of the Criminal Procedure that the Chief Commissioner should at once formally appoint me a Public Prosecutor in respect of all enquiries, Trials, appeals and applications for review wherein the late Amildar Tirumalachar is concerned. You must not lose any time about this as it is probable that the appeal, if filed on Thursday, will come on for hearing about the end of next week." (True Extract)

Kshirsagar
Dt. Magt.

General No: 5005
J. 87

Hand 6

D/27th Sept 1879. Camp Hunsur. Cable No 112/2 of 24th Sept 1879 from the Commr Trichinopoly &c, reporting the appointment of Mr E Smith as Advocate for Govt in the case of Tirumala Chari



Order No D/Camp Hunsur 27 Sept/79.

Section ? Under the provisions of Section 58 of the Code of Criminal Procedure, the Chief Commissioner is pleased to appoint Mr Sydney Smith, Advocate, as the Public Prosecutor in respect of all Enquiries, trials,

appeals, application
for transcript and
any other judicial
proceeding whatever
connected with or
arising out of the
criminal cases
hereunder specified:-

(i) Criminal Case No 78
of 1879 on the file
of the Court of Sessions
(ii) Do No 20 of 1879
(Summary Trial) on
the file of the Sessions Judge
of Tirunelveli.
(iii) Do No 22 of 1879 Do Do
(iv) Do No 27 of 1879 Do Do

2. The payment of
fee of Rs 500 to Mr.
E.S. Smith is authorized.

5

and a further
ie fenditure of
Rs 50 may be incurred
in procuring copies of
records.

Yr Secretary

To
The Deputy Taluka
Mr Edwin Smith Advocate
87 Mount Pleasant -
P.

1879.

To,

The Dy: Comm[r] Jumkhee
Dist[t]

Mr E. S. Smith
Advocate

The Dy: Asst Gen[l]
Dingee.

H[d] Q[rs] — Camp Jumsur 27 Sept[r] 1879.

Received 30
Desp[d]

Gen[l] No 5005
J 87

Sanctions the Appointment of Mr E. Sidney Smith, Advocate, as the Public Prosecutor under the Provisions of Section 58 of the Code of Criminal Procedure, in the cases Govt of Jirmalchari.